



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

August 28, 2020

Kevin Bogardus
E&E News
122 C Street NW, Suite 722
Washington, DC 20001

Re: Freedom of Information Act Appeal No. EPA-HQ-2020-004463 (Request No. EPA-HQ-2018-001315)

Dear Mr. Bogardus:

I am responding to your Freedom of Information Act (FOIA) appeal, dated May 1, 2020, which the Environmental Protection Agency (EPA or Agency) received on May 1, 2020. Your November 2, 2017 FOIA request sought "photos and/or images of the facility called the 'privacy booth' as described in Contract Award ID EP17H000248 to Acoustical Solutions LLC." You appealed the March 11, 2020 decision of Elizabeth White of the Office of Executive Secretariat to withhold in full one responsive record under FOIA Exemptions 7C and 7F. Upon careful review of the record at issue, your appeal is granted. The Office of Executive Secretariat will release a copy of the record. This letter constitutes EPA's final determination on this matter.

Should you have any questions concerning this matter, please contact Edward Sweeney at (202) 564-2945 or at sweeney.edward@epa.gov.

Sincerely,

**KEVIN
MILLER**

Digitally signed
by KEVIN MILLER
Date: 2020.08.28
15:18:14 -04'00'

Kevin Miller
Assistant General Counsel
General Law Office





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 11, 2020

OFFICE OF THE
EXECUTIVE SECRETARIAT

Mr. Kevin Bogardus
E&E News
122 C Street, NW, Suite 722
Washington, D.C. 20001

Re: Freedom of Information Act Request EPA-HQ-2018-001315

Dear Mr. Bogardus:

This letter concerns the above-referenced Freedom of Information Act request received by the U.S. Environmental Protection Agency on November 2, 2017, which requested a copy of "photos and/or images of the facility called the 'privacy booth' as described in Contract Award ID EP17H000248 to Acoustical Solutions LLC."

A search of the EPA's Office of the Administrator for records responsive to your request produced 1 page of records.

The record is being withheld pursuant to 5 U.S.C. § 552(b)(7)(c) Law Enforcement-Personal Privacy and 552(b)(7)(f) Law Enforcement-Life or Physical Safety of an Individual. The portions of records are exempt from disclosure because they contain personal information which would and/or could be an unwarranted invasion of personal privacy if released and/or which could reasonably be expected to endanger the life or physical safety of an individual.

This letter concludes our response to your request. You may appeal this final response with an email to hq.foia@epa.gov, through FOIAonline if you are an account holder or by writing to:

National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2310A)
Washington, D.C. 20460

Please note that only correspondence mailed through the U.S. Postal Service can be delivered to the address above. If you would like to deliver your appeal in person, via courier service or via an overnight delivery service, you must address your correspondence to 1200 Pennsylvania Avenue, NW, Room 5315, Washington, D.C. 20460.

Your written appeal must be received no later than 90 calendar days from the date of this letter and should include the request number listed above. The EPA will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5 p.m. Eastern time will be

considered as having been received the next business day. For the quickest possible handling, the subject line of your email or the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Additionally, you may seek dispute resolution services from EPA's FOIA public liaison at hq.foia@epa.gov or (202) 566-1667 or from the Office of Government Information Services. You may contact OGIS with an email to ogis@nara.gov; by calling (202) 741-5770 or (877) 684-6448; with a fax to (202) 741-5769; or by mail to Office of Government Information Services, National Archives and Records Administration, 8610 Adelphi Road, Room 2510, College Park, Maryland 20740-6001.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth B. White", written in a cursive style.

Elizabeth B. White
Director

Message

From: Donahue, Sean [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D091309122C1425D8537C22FB23DDEBF-DONAHUE, SE]
Sent: 3/10/2020 9:00:45 PM
To: White, Elizabeth [white.elizabeth@epa.gov]
Subject: Closeouts for Booth Photo Requests
Attachments: EPA-HQ-2018-004727 Closeout Letter 3.10.2020.docx; EPA-HQ-2018-001315 Closeout Letter 3.10.2020.docx; EPA-HQ-2018-007401 Closeout Letter 3.10.2020.docx

Hi Beth,

Attached are 3 closeout letters for FOIAs requesting photos of the booth. Please reach out with any questions.

Best regards,

Sean M. Donahue

Special Advisor

Office of the Executive Secretariat

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

O: (202) 564-5007

Donahue.Sean@epa.gov

Message

From: White, Elizabeth [white.elizabeth@epa.gov]
Sent: 2/4/2020 10:28:38 PM
To: Donahue, Sean [donahue.sean@epa.gov]
Subject: phone booth

Didn't we conclude that there are no agency records?

EPA-HQ-2018-004727	Simple	Timothy Cama	E&E News	I request copies of all photographs or videos that show the "privacy booth" for Administrator Scott Pruitt, as described in contract EP17H000248, signed with Acoustical Solutions Inc. This includes, but is not limited to, photos and videos that show the inside or outside of it, even if the booth is not the main subject of the photo or video. Please also include any photos or videos of the process of installing it. Please limit the search to records created or edited between Aug. 30, 2017, and the day the search for this request is processed.	2/22/2018	EPA-HQ-AO-OPA - Office of Public Affairs
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Beth White

Director, Office of the Executive Secretariat
U.S. Environmental Protection Agency
(202) 564-1781 direct
(202) 816-1701 cell

Message

From: White, Elizabeth [white.elizabeth@epa.gov]
Sent: 11/9/2018 4:23:24 PM
To: Hill, Kevin W. [hill.kevinw@epa.gov]
CC: Donahue, Sean [donahue.sean@epa.gov]
Subject: RE: Privacy Booth

Hey Kevin – I don't know if there are pictures. I think this has come up before but I don't remember if we ever found anything.

Beth White

Director, Office of the Executive Secretariat
U.S. Environmental Protection Agency
(202) 564-1781 direct
(202) 816-1701 cell

From: Hill, Kevin W.
Sent: Friday, November 9, 2018 10:39 AM
To: White, Elizabeth <white.elizabeth@epa.gov>
Cc: Donahue, Sean <donahue.sean@epa.gov>
Subject: Privacy Booth

Beth,

Does AO have any photos of the privacy/phone booth?

Regards,
Kevin

Kevin W. Hill
Attorney-Adviser
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Office: 202-564-1652
hill.kevinw@epa.gov

<https://www.flickr.com/gp/usepagov/70Qu9z>

[DATE \@ "MMMM d, yyyy"]

Mr. Kevin Bogardus
E&E News
122 C Street, NW, Suite 722
Washington, D.C. 20001

Re: Freedom of Information Act Request EPA-HQ-2018-001315

Dear Mr. Bogardus:

(b) (5)



(b) (5)



Case Phase: Closed Case Status: Closed; Appealed Due Date: 12/05/2017

Requester Information

Requester	Kevin Bogardus
Organization	E&E News
Requester Has Account	Yes
Email Address	kbogardus@eenews.net
Phone Number	2024460401
Fax Number	2027375299
Address	E&E News 122 C Street NW, Suite 722
City	Washington
State/Province	DC
Zip Code/Postal Code	20001
Tracking Number	EPA-HQ-2018-001315
Submitted Date	11/02/2017
Received Date	11/02/2017
Perfected Date	11/03/2017
Last Assigned Date	11/07/2017
Assigned To	Mr. Sean M Donahue (Office of the Administrator)
Last Assigned By	Wayne Heard (Office of the Administrator)
Request Track	Simple
Fee Limit	\$25.00

Closure Information

Closed Date	08/28/2020
Disposition	Full Grant
"Other" Disposition	
Exemptions Used	
Statutes Used	
Subtypes Used	

Request Handling

Requester Info Available to the Public	<div>Yes</div>
Request Track	<div>Simple</div>
Fee Category	<div>Media</div>
Fee Waiver Requested	No
Fee Waiver Status	
Expedited Processing Requested	No
Expedited Processing Status	
Request Type	<div>FOIA</div>

Request Perfected

Yes

★ Perfected Date

11/03/2017

Acknowledgement Sent Date

Unusual Circumstances

No

Litigation

No

5 Day Notifications

Description

374/2000

I request photos and/or images of the facility called the "privacy booth" as described in Contract Award ID EP17H000248 to Acoustical Solutions LLC. Please click on this link for more detail on this contract (https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=4716D4A2-5DC7-4478-99B9-C149824A8233&AwardID=59105713&AwardType=C).

Has Description Been Modified

Description Available to the Public

Yes

Short Description

Additional Information

Unusual circumstances Invoked and Due Date
Extended

Select Unusual circumstances Invoked and Due Date ...

Date Unusual Circumstances Invoked – you MUST
go to **EXTEND DUE DATE** in **LEFT-HAND
NAVIGATION BAR** and **COMPLETE FIELDS** including
ESTIMATED DATE OF COMPLETION

★ Records Locations - Identify one or more
locations where records may be located

Select Records Locations - Identify

Attached Supporting Files

Attachments Available to the Public

No

Attached File Name

Size (MB)

File Type

Remove

No supporting files have been uploaded.

Case Phase: Closed Case Status: Closed; Appealed Due Date: 12/05/2017

Requester Information

Correspondence to Requester

Subject	From	To	Date		Remove	Detail
Final Disposition, Request EPA-HQ-2018-001315	Mr. Sean M Donahue	Kevin Bogardus	08/28/2020			
<p>EPA-HQ-2018-001315 has been processed with the following final disposition: Full Grant. Records were released to the public as a result of this request. You may retrieve these records immediately using the following link: View Records Over the next 2 hours, these records are also being added to FOIAonline's search pages, further enabling you to retrieve these documents associated with your FOIA request at any time.</p> <p>Appeal No. EPA-HQ-2020-004463 - Appeal Determination (8-28-20).pdf</p> <p>2018-09-04_TheBooth_08.jpg</p>						
Final Disposition, Request EPA-HQ-2018-001315	Mr. Sean M Donahue	Kevin Bogardus	03/11/2020			
<p>EPA-HQ-2018-001315 has been processed with the following final disposition: Full Denial Based on Exemptions.</p> <p>EPA-HQ-2018-001315 Final 3.11.2020.pdf</p>						
FOIA Request: EPA-HQ-2018-001315	Victor Farren	Kevin Bogardus	06/01/2018			

Subject	From	To	Date	Remove	Detail
<p>06/01/2018 03:14 PM FOIA Request: EPA-HQ-2018-001315 This email is about your Freedom of Information Act (FOIA) request, EPA-HQ-2018-001315; it is assigned to the Office of the Administrator for processing. The Office of the Administrator has experienced a significant increase in FOIA requests since the start of this administration. As of May 7, 2018, your FOIA request, EPA-HQ-2018-001315, is currently 855 in the queue. We are processing all FOIAs within the scope of our resources, given the sharp increase in requests. If possible, we will provide you with interim releases as they become available. In fiscal year 2017, the average processing time for complex FOIA requests processed by AO was 388 working days. Using this number as instructive to estimate the time to process your request, the new estimated completion date for this FOIA is April 30, 2019. The following are some sources of publicly available information that you can access immediately and which may contain information responsive to your request: Our website: https://www.epa.gov/home/advanced-search The EPA newsroom: https://www.epa.gov/newsroom FOIAonline for records previously released through FOIA requests: https://foiaonline.regulations.gov/foia/action/public/search/ Frequently requested records: https://www.epa.gov/foia/national-online-foia-library#request MyProperty: https://www3.epa.gov/enviro/facts/myproperty/ Technical/scientific/educational publications: https://www.epa.gov/nscep Superfund sites and data: https://www.epa.gov/foia/national-online-foia-library#superfund Historical material reflecting the EPA website as it existed on January 19, 2017 https://19january2017snapshot.epa.gov/ If you wish to clarify your request, so that once we reach the request in the queue, it might be processed in a shorter amount of time, please contact Nicole Rementer, Rementer.Nicole@epa.gov. If you are no longer interested in the requested records, please let us know so that we can remove your request from the queue. Please be sure to include your tracking number, EPA-HQ-2018-001315, in the email subject to ensure a timely response. In addition to seeking assistance from the contact above, you may seek assistance from the EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). OGIS's services are described on their website, https://www.archives.gov/ogis. You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. Thank you, Nicole Rementer</p>					

FOIA Request EPA HQ 2018 001315 Submitted	System	Kevin Bogardus	11/02/2017	
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This message is to confirm your request submission to the FOIAonline application: View Request . Request information is as follows: Tracking Number: EPA-HQ-2018-001315 Requester Name: Kevin Bogardus Date Submitted: 11/02/2017 Request Status: Submitted Description:I request photos and/or images of the facility called the "privacy booth" as described in Contract Award ID EP17H000248 to Acoustical Solutions LLC. Please click on this link for more detail on this contract (<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=4716D4A2-5DC7-4478-99B9-C149824A8233&AwardID=59105713&AwardType=C>).





Other Correspondence

Attached File Name	Size (MB)	File Type	Remove
Appeal No. EPA-HQ-2020-004463 - Appeal Determination (8-28-20).pdf	0.1869	Adobe PDF Document	
EPA-HQ-2018-001315 Final 3.11.2020.pdf	0.9196	Adobe PDF Document	

Case Phase: Closed Case Status: Closed; Appealed Due Date: 12/05/2017

Requester Information

Existing Admin Costs

Date	 User Name	Charge Type	Hours/Quantity	Rate	Billable?	Total	Action	Detail
08/28/2020	Anna Dziadosz	Review	1.00	69.52	No	69.52	 	


Fee Category	Media
Total	\$69.52
Invoice Amount	\$0.00

New Entry

User Type

Agency User

★ User Name

Jonathan Newton 

Billing Category

Bill At Cost - \$69.52

Litigation Related Costs

No

★ Charge Date

★ Charge Type

Search

★ Hours

Billable

Yes